

We The People: The United States Constitution

Tyranny: The unjust abuse of government power

Declaration of Independence: Authored by Thomas Jefferson, this document lays out the case for American independence, and lists the abuses King George III has inflicted upon the British Colonies.

Notable Quote: We hold these truths to be self-evident, that all men are created equal. That they are endowed by their creator with certain inalienable rights, that among these are Life, Liberty, and the Pursuit of Happiness, that to secure these rights, governments are instituted among men, deriving their Just Powers from the Consent of the Governed.

Inalienable (or Natural) Rights: These are rights that are so fundamental they cannot be taken away by anyone or anything. John Locke listed the fundamental rights as “Life, Liberty, and Property.” Jefferson in the Declaration of Independence modifies them to be “Life, Liberty, and the Pursuit of Happiness.”

John Locke’s *State of Nature*: Locke wrote in his *Two Treatises on Government* about the “State of Nature” a condition where there are no laws, no order, and essentially chaos. In a state of nature, you have no natural rights; it is essentially a survival of the fittest. To overcome a state of nature, you must form a social contract, where all people agree to live under a certain set of rules. (Today, we call a social contract - *government*)

The Purpose of Government: According to John Locke, the purpose of government is to protect natural rights.

“Consent of the Governed”: The idea that government gets its power from your permission. YOU have to give the government permission to have power. Jefferson carries this further by arguing in the Declaration of Independence that when government is being abusive, you have the right to abolish, or overthrow the government.

Constitutional Government: government that is limited in its power by some framework.

Republican Government: government where the people elect representatives to serve their interests.

U.S. Constitution: Written in 1787, primarily by James Madison, it establishes the framework for all government in the United States

Bill of Rights: Proposed by Madison in 1789, they are the first ten amendments to the Constitution

The Constitution lays out the foundation of three branches of government. These Branches are:

The Legislative Branch: This branch makes the laws. This branch is called *Congress*. Congress has two parts:

The House of Representatives: 435 Members who serve for two year terms. You must be 25 years old to serve as a representative. The House is based on *proportional representation* or population. House members represent districts.

The Senate: 100 members who serve for six year terms. Every two years 1/3 of the Senate is up for reelection. You must be 30 years old to serve as a senator. The Senate is based on *equal representation* where all the states have 2 votes. The Senate has the added privilege of *Advise and Consent*, which means they advise the president and confirm many of the president's decisions, such as Supreme Court Justices, foreign treaties, cabinet members.

The Executive Branch: This branch enforces the laws. The Chief Executive of the United States is also known as the president. You must be 35 years old to serve as president. You may serve two 4-year terms, for a total of 8 years.

The Electoral College: The Manner in which we elect a president. Based on the total number of representatives and senators each state has. You need 270 votes out of 538 to be elected president

The Judicial Branch: This branch interprets the laws. The highest court in the land is the United States Supreme Court. Nine members serve on the court and are appointed for life.

Marbury vs. Madison: 1803 Supreme Court decision that establishes the Court's power of judicial review – the power to declare acts and laws of Congress and the President unconstitutional

Checks and Balances: The three branches operate with a system of checks and balances, which means that our government is designed that no one branch can overpower the others.

The Supremacy Clause: found in the Constitution, it establishes the Federal Constitution as the highest law in the nation.

Federalism: power is balanced between two levels of government. In the United States our federal system balances power between the Federal Government and State Government

First Amendment: You have freedom of speech, freedom to worship, freedom of the press, the right to assemble, and the right to petition the government for a redress of grievances (you have the right to complain to the government if you feel your rights are violated.)

Second Amendment: You have the right to bear arms (own a gun).

Third Amendment: You are protected from having to quarter (keep) soldiers in your home.

Fourth Amendment: You are protected against unlawful searches and seizures.

Fifth Amendment: You are protected against self-incrimination, and guaranteed due process at the **FEDERAL LEVEL**. You are protected against being tried for the same crime twice (Double Jeopardy)

Sixth Amendment: You are guaranteed a right to a speedy trial by an impartial jury of your peers and the right to confront the witnesses against you, and the right to counsel (an attorney)

Seventh Amendment: The right to a trial by jury shall be preserved when damages exceed twenty dollars

Eighth Amendment: You are protected against cruel and unusual punishment

Ninth Amendment: Declares that the people have rights beyond those expressly mentioned in the Constitution

Tenth Amendment: Declares that rights not specifically given to the federal government remain with the states and the people.

Habeas Corpus: Meaning *To Have the Body*, you have the right to be made aware of the charges against you. If you are not charged after a certain period of time, the authorities have to let you go.

Miranda Rights: Established by the Fourth, Fifth, Sixth, Seventh, and Eighth Amendments and the right of *Habeas Corpus* to protect your rights when you are arrested. First defined in the Supreme Court decision *Miranda vs. Arizona*.

Virginia Plan: Called for two houses of Congress and a strong national government based on population or proportional representation.

New Jersey Plan: Called for a weak national government and one house of Congress based on equal representation

The Great Compromise: Established the government of the United States has having two houses and a strong national government: The House of Representatives and the Senate. It was a compromise between the Virginia and New Jersey Plans

Thirteenth Amendment: Outlaws Slavery

Fourteenth Amendment: Guarantees due process at **STATE LEVEL**

Fifteenth Amendment: Guarantees the right to vote

Nineteenth Amendment: Grants the right to vote to women

Twenty-Second Amendment: Limits the president to two four-year terms

Twenty-Sixth Amendment: Guarantees the right to vote to anyone over the age of 18.

Three-Fifths Clause: A compromise on the issue of slavery stating that blacks would count as 3/5ths of a person. South supported counting blacks as whole people while the North was opposed to it. This compromise prevented the South from completely dominating the House of Representatives

The Anti-Federalists: Prominent Americans who were opposed to the ratification of the U.S. Constitution. Feared strong central government and proposed a Bill of Rights to protect individual rights

The Federalists: Supporters of the new Constitution they argued for strong national government and were against the Bill of Rights, believing protections for individuals currently existed in the Constitution

The Federalist Papers: Written by James Madison, Alexander Hamilton, and John Jay to support the argument for ratifying the Constitution.

Federalist Number 10: James Madison warns against factions or political parties. He argues that America is so large and diverse that parties should not be able to form.

Federalist Number 51: Madison states that “if men were angels there would be no need for government,” but because they are imperfect, we need a system of checks and balances to control government.

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SIMULATED CONGRESSIONAL HEARING — JUDGES' UNIT & FOLLOW-UP QUESTIONS



UNIT 1

WHAT WERE THE FOUNDERS' BASIC IDEAS ABOUT GOVERNMENT?

1. John Locke was an English philosopher who thought about why it was necessary to have a government.
2. What did Locke think would happen without government?
3. What did Locke believe to be the purpose of government?
4. Do you think government might have purposes that Locke did not mention? Explain your answer.

Suggested follow-up questions

- a. How did Locke influence the Founders and Framers? Explain your answer.
- b. How is the purpose of school similar to or different from the purpose of government? Explain your answer.
- c. Do we as a nation emphasize rights to the detriment of responsibilities? Explain your answer.
- d. How does our nation protect the common welfare while protecting natural rights? Should more importance be placed upon one or the other? Explain your answer.
- e. Do you believe that the rights of some American citizens are not sufficiently protected today? Support your viewpoint. If greater protection is needed, how should citizens respond?
- f. Does the U.S. government and its leaders follow the principles established by Locke? Explain your answer.
- g. How would Locke view attempts by government to place warnings on music, movies, and video games? Explain your answer.
- h. What mechanisms are in place to ensure that government does not violate our natural rights? Have these mechanisms worked? Why or why not?

**UNIT 2****WHAT SHAPED THE FOUNDERS' THINKING ABOUT GOVERNMENT?**

1. The Declaration of Independence told the world why the Americans wanted to free themselves from British rule. The Declaration stated the Founders' beliefs about government.
 - c. Using the Declaration as your source, in your own words describe the principles of good government.
 - d. Where did the Founders get these ideas?
 - e. Do you think these principles are valid today? Why or why not?

Suggested follow-up questions

- a. Thomas Jefferson stated that laws should expire after a generation or that every generation should have a revolution. Do you think the right of the people to revolt is relevant today? Why or why not?
- b. Did the Declaration reflect the opinions of all the colonists at the time? Why or why not?
- c. What mechanisms are in place that would allow us to revolt against our government? Explain your answer.
- d. What basic rights would you add to the Declaration? Explain your answer.
- e. What ideas of the Declaration are reflected in the Constitution and Bill of Rights? Explain your answer.
- f. Do you think the diversity of Americans increases their acceptance of people with different beliefs and lifestyles? Why or why not?
- g. Should a portion of our nation or a state that wishes to remove itself from the United States be allowed to do so? Why or why not?

**UNIT 3****WHAT HAPPENED AT THE PHILADELPHIA CONVENTION?**

1. Because of different economic systems, Northern and Southern states had different interests. These conflicting interests led to disagreements at the Philadelphia Convention.
 - o Describe at least two disagreements between Northern and Southern states at the convention.
 - o What parts of the Constitution are the result of compromises that settled disagreements between the Northern and Southern states?
 - o Do you think the Framers should have made these compromises? Why or why not?

Suggested follow-up questions

- a. Were all Americans represented at the Philadelphia Convention? Why or why not?
- b. Why did the Framers disregard their original purpose for meeting in Philadelphia? Why were the meetings kept secret from the American people? Do you agree with these decisions? Why or why not?
- c. Does compromise support or conflict with the fundamental principle of representative government? Explain your answer.
- d. Do you think the Framers erred in compromising on slavery? Were there any other solutions available to them? Explain your answer.
- e. The whole Constitution is sometimes described as a compromise. How should leaders decide when to compromise and when to hold firm? Support your opinion.
- f. What was the result of the Great Compromise? What were its effects on the North and on the South?
- g. If a new constitutional convention were to be called, what groups would you include? Explain your answer.
- h. What changes do you think should be made to the Constitution? Support your answer.

*3/5th's
Compromise*

**UNIT 3****WHAT HAPPENED AT THE PHILADELPHIA CONVENTION?**

2. Articles I, II, and III of the Constitution list the powers of the Congress, president, and the legislative, executive, and judicial branches of the national government.

- ☒ Describe some of the powers the Constitution gives to the Congress. In what ways does the Constitution limit the power of Congress?
- ☒ Describe some of the powers of the president. In what ways does the Constitution limit the power of the president?
- ☒ Describe some of the powers of the judiciary. In what ways does the Constitution limit the power of the U.S. Supreme Court?

Suggested follow-up questions

- a. What checks are placed on the president? Can you cite any examples of these checks in action? Are they enough or would you place further checks on the president? Why or why not?
- b. Should the president be subject to civil trials while in office? Why or why not?
- c. Should the president be required to come before Congress to explain his or her actions? Why or why not?
- d. What impact did the Framers' knowledge and experiences have on the creation of the executive branch? Explain your answer.
- e. What role did George Washington play in the formation of the executive branch?
- f. Does the office of the president reflect a principle of republicanism (representative government)? Why or why not?
- g. What examples can you cite of a current or recent president using Article II powers?
- ☒ h. Why was the electoral college created? Is it needed today? Why or why not?

**UNIT 3****WHAT HAPPENED AT THE PHILADELPHIA CONVENTION?**

3. The Framers put forth various plans to solve the problem of representation in Congress.

- ⓐ What were the advantages and disadvantages of the Virginia Plan?
- ⓑ What were the advantages and disadvantages of the New Jersey Plan?
- ⓒ Do you think the Great Compromise was a good solution to the problem of representation? Why or why not?

Suggested follow-up questions

- ⓐ What are the advantages and disadvantages of equal representation?
- ⓑ What are the advantages and disadvantages of proportional representation?
- ⓒ Do you think that small or large states benefited the most from the Great Compromise? Explain your answer.
- ⓓ Why did small states want equal representation?
- ⓔ Why did large states want proportional representation?

**UNIT 4****HOW WAS THE CONSTITUTION USED TO ESTABLISH OUR GOVERNMENT?**

1. One of the enduring contributions of the Framers was the creation of the federal system of government.

⑥ What is a federal system of government? Compare it with a unitary or a confederal system of government.

Federalism

- How are powers distributed between the states and the national government under our federal system? Give examples.
- What are the advantages and disadvantages of the federal system? Give some current examples.

Suggested follow-up questions

a. What happens when state constitutions and the U.S. Constitution conflict? Support your position.

Supremacy Clause

- b. What is the difference between a national government and a federal system?
- c. How are the principles of popular sovereignty and republicanism (representative government) reflected in a federal system? Explain your answer.
- d. Given the size of our nation as compared to the landmass and population in 1787, should we add regional governments? Why or why not?
- e. What issues should fall under the federal government's domain and which should remain with the states? What criteria would you establish for any given issue? Explain your answer.
- f. Given the great mobility of our populace and current technology, is it still necessary to have separate national, state, and local governments and/or separate powers?
- g. Which level of government has the greatest impact on your quality of life? Support your answer.

**UNIT 4****HOW WAS THE CONSTITUTION USED TO ESTABLISH OUR GOVERNMENT?**

2. Judicial review is an important part of our constitutional system of government.

8 How did the Supreme Court acquire the power of judicial review?

8 Do you think the Supreme Court should have the power to declare an act of Congress unconstitutional? Why or why not?

- a. How should justices determine the meaning of the words of the Constitution?

} Marbury vs. Madison

Suggested follow-up questions

- a. Is the power of judicial review essential to a constitutional government? Why or why not?
- b. Do you believe that an independent judiciary is essential to good government?
- c. Describe one method of interpreting the Constitution. What are the strengths and weaknesses of this method?
- d. What checks are there on judicial review? Are they effective? Explain your position.
- e. Is judicial review consistent with democracy, republicanism (representative government), and popular sovereignty? Why or why not?
- f. If the Supreme Court did not act as the ultimate guardian of our political system as defined in our Constitution, what or who would serve that purpose? Explain your answer.
- g. If the Supreme Court has the power to declare laws null and void, should this power be clearly stated in the Constitution rather than implied? Why or why not?

**UNIT 4****HOW WAS THE CONSTITUTION USED TO ESTABLISH OUR GOVERNMENT?**

3. Political parties are an important part of our political system today, yet they are not mentioned in the Constitution.

- Why did the Framers fear political parties?
- Why and how did political parties develop?
- Do political parties play a useful role today? Why or why not?

Federalist 10

Suggested follow-up questions

- a. Would you favor a constitutional amendment that banned political parties? Why or why not?
- b. Have political parties helped or hindered the democratic process? Explain your answer.
- c. Have political parties helped or hindered the legislative process? Explain your answer.
- d. If we were a nation of only one political party, would that be a problem? Why or why not?
- e. What does the growing number of independent parties say about our system? Explain your answer.
- f. What principles do the modern Republican and Democratic parties stand for? Which party more closely represents the ideals of the Federalists and which represents the ideals of the Republicans of Jefferson's time? Explain your answer.
- g. If James Madison were writing his Federalist 10 today, speaking out against factions, what examples would he use? Explain your answer.
- h. Do factions have a right to participate in the political process? Would you regulate the political influence of special interests? Explain your answer.

**UNIT 5****HOW DOES THE CONSTITUTION PROTECT OUR BASIC RIGHTS?**

1. The very first amendment, added to the Constitution in 1791, contains guarantees of freedom of religion.
 - Why did the Founders think freedom of religion was so important?
 - Explain the difference between the establishment and free exercise clauses.
 - Do you think limitations should ever be imposed on the free exercise of one's religious beliefs? Explain your answers.

**Five Freedoms
of the First
Amendment**

Suggested follow-up questions

- a. Would you favor or oppose an amendment to allow the Ten Commandments to be posted in schools? Why or why not? Explain your answer.
- b. If freedom of religion was so important, why did the Framers not include it in the body of the Constitution?
- c. What are some benefits of freedom of religion? Explain your answer.
- d. Under what conditions do you think public schools should have the right to limit a student's free exercise of religion? Explain your answer.
- e. Congress and various state legislatures allow a prayer to be recited at the opening of each legislative session. Is this practice a violation of the establishment of religion clause? Why or why not?
- f. Do you think that the establishment clause and the free exercise clause support contradictory principles? If you believe they are contradictory, how should the conflict be resolved? Support your answer with examples.



UNIT 5

HOW DOES THE CONSTITUTION PROTECT OUR BASIC RIGHTS?

2. Due process of law has been called the "primary and indispensable foundation of individual freedom" because it protects the individual from government wrongdoing.

- Ⓒ What is the right to due process? Where in the Constitution is due process protected and how is the meaning of due process applied?
- Ⓒ How does the equal protection clause of the Fourteenth Amendment prevent state governments from practicing unfair discrimination?
- Ⓒ Should young people under the age of eighteen have the same due process rights as adults? Why or why not?

Miranda Rights

Suggested follow-up questions

- a. What is the most important due process right? Explain your answer.
- b. Is there a difference in due process rights for citizens and illegal immigrants? Should there be? Why or why not?
- c. Why is it important to assure procedural due process for people accused of serious crimes? How does protecting the rights of the accused also protect the rights of law-abiding citizens? Explain your answer.
- d. How does due process help to ensure that public officials will not abuse their power? Explain your answer.
- e. What processes do you believe are required under the Fifth and Fourteenth Amendments? What is the difference between the two amendments? Explain your answer.
- f. Is it appropriate to limit the Fourteenth Amendment's protection against unreasonable search and seizure in school settings? Why or why not?
- g. In times of crisis, such as war or mayhem, should due process be limited? Why or why not?

**UNIT 5****HOW DOES THE CONSTITUTION PROTECT OUR BASIC RIGHTS?**

3. The First Amendment states that laws shall not be passed that abridge freedom of speech.
- Why did the Founders think freedom of speech was so important?
 - Do you believe there are times when freedom of expression should be limited? Explain your response.
 - Should a public speaker who calls for violent action be protected by the First Amendment whereas an audience member who performs the action can be sent to prison? Why or why not?

Suggested follow-up questions

- a. In the case of *Tinker v. Des Moines*, the court said that although students do not give up their rights at the schoolhouse gate, expression that interferes with the school's mission can be limited. Does the *Tinker* decision give school officials too much authority to limit free speech? Explain your position.
- b. The French philosopher Voltaire said he might not agree with what you are saying but he would defend to the death your right to say it. What is your opinion of this idea? Explain your answer.
- c. Should it be lawful to put information on the Internet about how to make a bomb? Why or why not?
- d. Should expression that is offensive to some students be restricted by "speech codes"? Should speech codes be subject to the limitations of the First Amendment or should schools and colleges be allowed to limit expression as they see fit? Why or why not?
- e. Is it appropriate to allow government greater flexibility to regulate commercial speech, such as advertising, than political speech? Why or why not?
- f. In your opinion, do time, place, and manner restrictions violate the right to free expression? Why or why not?